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13 TRANSPORT LTD

14 and JERRY WAYNE DUDLEY JR.

15 **UNITED STATES DISTRICT COURT**

16 **EASTERN DISTRICT OF CALIFORNIA**

17 JOSE ZEPEDA ALACRAZ, an
18 individual; MARIBEL ALCALA DE
19 PEREZ, an individual,

20 Plaintiff,

21 v.

22 MARTEN TRANSPORT LTD, a
23 corporation; JERRY WAYNE DUDLEY
24 JR, an individual; and DOES 1 to 25
25 inclusive,

Defendant.

Case No. 1:23-CV-00615-JLT-SKO

**JOINT STIPULATION AND ORDER
TO MODIFY SCHEDULING ORDER**

(Doc. 53)

Assigned to: Hon. Jennifer L. Thurston
Magistrate Judge: Hon. Sheila K. Oberto

Complaint Filed: March 9, 2023
Trial: October 25, 2025

19 Pursuant to Rules 6(b) and 29(b) of the Federal Rules of Civil Procedure and
20 Pursuant to Local Rule 143 Plaintiffs JOSE ZEPEDA ALACRAZ and MARIBEL
21 ALCALA DE PEREZ (“Plaintiffs”) and Defendants MARTEN TRANSPORT LTD and
22 JERRY WAYNE DUDLEY JR (“Defendants”) (collectively the “Parties”) hereby
23 respectfully stipulate and request the Court amend the current Scheduling Order (ECF
24 No. 41) for good cause, and in support thereof would respectfully show the Court as
25 follows:

26 On August 17, 2023, a Scheduling Conference was held; the Court set the
27 following deadlines pursuant to Federal Rule of Civil Procedure 16 and Civil Local Rule
28 240:

1 Non Expert Discovery: June 14, 2024

2 Expert Disclosures: August 1, 2024

3 Rebuttal Expert Disclosures: August 29, 2024

4 Expert Discovery: September 27, 2024

5 These pretrial deadlines have been amended pursuant to the Parties agreement on
6 four occasions. The trial date has been continued twice by the Court *sua sponte*, and most
7 recently to October 21, 2025. (ECF 41). The current discovery deadlines, as per the
8 October 28, 2024 Order (ECF 41) are as follows:

9 Non-Expert Discovery: January 31, 2025

10 Expert Disclosures: February 28, 2025

11 Rebuttal Expert Disclosures: March 14, 2025

12 Expert Discovery: April 11, 2025

13 The Parties now request a further amendment to the discovery deadlines as follows
14 preceding the October 21, 2025 trial in this matter:

15 Non-Expert Discovery: April 11, 2025

16 Expert Disclosures: May 9, 2025

17 Rebuttal Expert Disclosures: May 23, 2025

18 Expert Discovery: June 13, 2025

19 Good cause exists to grant this joint stipulation and the Parties request this reset
20 and amendment to the Scheduling Order for the following reasons:

- 21 (1) The scope and extent of Plaintiffs' alleged injuries and resulting damages
22 necessitates extensive discovery. Although the Parties are making diligent
23 efforts to complete all pending discovery, the Parties will not be able to
24 comply with the current fact and expert discovery deadlines. Moreover, the
25 Parties have agreed to attend a mediation, however, the Parties must first
26 complete the pending discovery before they can engage in meaningful
27 settlement discussions.

- 28 (2) To date, the following depositions have been completed: Three (3)

1 depositions of emergency personnel; two (2) depositions of eyewitnesses;
2 the depositions

3 //

4 of both Plaintiffs; the depositions of Defendant Marten's PMQ and
5 Defendant Dudley; and seven (7) depositions of Plaintiffs' treating
6 physicians.

- 7 (3) Additionally, despite properly noticing the deposition of plaintiffs' treating
8 provider, Dr. Robert Reisch, Defendants were forced to take a certificate of
9 non-appearance on January 9, 2025, due to his failure to appear for
10 deposition, which must now either be rescheduled or compelled. Further,
11 Defendants must conduct a second session of Dr. Timothy Davis' deposition
12 which was suspended because Dr. Davis acknowledged that he had
13 additional records that had inadvertently not been produced prior to his
14 deposition.
- 15 (4) Defendants are also working on coordinating no less than twenty (20)
16 additional medical treater depositions; and five (5) fact witness depositions;
17 however, the Parties may require the Court's input on the number of
18 depositions appropriate for this case in the future as Plaintiffs will not
19 stipulate to allow Defendants more than 12 depositions (2 more than the 10
20 allowed by FRCP 30).
- 21 (5) Plaintiffs obtained contact information for several additional eyewitnesses to
22 the subject accident from CHP Officer Aldrete's August 2, 2024 deposition.
23 Plaintiffs did successfully subpoena and obtain the deposition of two (2) of
24 these witnesses, and determine that a third cannot be found; however, there
25 is one final accident eyewitness that Plaintiffs are diligently working to
26 contact, locate and subpoena. There is insufficient time to locate them all,
27 provide the required notice, and secure their availability for a deposition to
28 take place based on the current deadline.

(6) Plaintiffs have subpoenaed Defendant Dudley's prior employment records from First Fleet, Inc., which were due this past week and were not produced; therefore, a motion to compel may be needed and/or a deposition of the employer's PMQ, which will require travel to Tennessee.

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(7) Plaintiffs are still undergoing treatment, and plaintiff, Maribel Alcala De Perez just recently underwent an additional surgical procedure on January 14, 2025, for which the associated records remain outstanding. She is also planning an additional surgical procedure in the next month. As such, the Parties require additional time to obtain these records and for Defendants' experts evaluate same.

(8) Given the scope and extent of Plaintiffs' alleged injuries, including their alleged traumatic brain injuries, the Parties have been conferring over the necessary Independent Medical Examinations that Defendants require of each plaintiff. Currently, Plaintiffs have agreed to submit for physical examinations with Defendants' neurologist which are scheduled for February 24, 2025. Plaintiffs have also agreed to undergo neuropsychological examinations. However, the Parties have not been able to agree as to the terms of the neuropsychological examinations, or whether Plaintiffs will agree to submit to the psychiatric examinations that Defendants also seek. The Parties are in the process of briefing the Court on this dispute. Given the current posture of discovery, however, the Parties require additional time to complete the above discovery, brief the Court, and have Plaintiffs submit to the necessary Independent Medical Examinations.

(9) Plaintiffs' counsels of record will be engaged in a trial beginning March 21, 2025, which will limit their ability to participate in critical expert discovery based on the current deadlines.

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(10) This brief continuance may aid the facilitation of settlement, it will not cause any prejudice to the Parties or any third-party, and it is not requested for any improper purpose.

Dated: February 7, 2025

CLARK HILL LLP

By: /s/ Stephanie L. Freismuth
Bradford G. Hughes
Seta Sarabekian
Stephanie L. Freismuth
Attorneys for Defendants MARTEN
TRANSPORTS LTD and JERRY WAYNE
DUDLEY JR.

Dated: February 7, 2025

BD&J, PC

By: /s/ Jennifer Bagosy (as authorized on 2/7/25)
Olivier Taillieu
Jennifer Bagosy
Attorneys for Plaintiffs JOSE ZAPEDA and
MARIBEL ALCALA DE PEREZ

ORDER

Pursuant to the parties' foregoing stipulation (Doc. 53), and for good cause shown (*see* Fed. R. Civ. P. 16(b)(4)), the case schedule (Doc. 41) is MODIFIED as follows:

	Previous Deadline	New Deadline
Non-Expert Discovery	January 31, 2025	April 11, 2025 (<i>nunc pro tunc</i>)
Expert Disclosures	February 28, 2025	May 9, 2025
Rebuttal Expert Disclosures	March 14, 2025	May 23, 2025
Expert Discovery	April 11, 2025	June 13, 2025
Non-Dispositive Motion Deadline ¹	Filing: April 16, 2025 Hearing: May 21, 2025	Filing: June 18, 2025 Hearing: July 23, 2025
Dispositive Motion Deadline	Filing: April 23, 2025 Hearing: May 28, 2025	Filing: June 25, 2025 Hearing: July 30, 2025
Deadline to Provide Proposed Settlement Conference Dates	By July 23, 2025, or 90 days before trial, whichever is later	By September 24, 2025, or 90 days before trial, whichever is later
Pre-Trial Conference	August 25, 2025	October 27, 2025
Trial	October 21, 2025	January 13, 2026

IT IS SO ORDERED.

Dated: February 10, 2025

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

¹ Although the parties did not request an enlargement of the motion deadlines and pretrial and trial dates, such enlargement is necessary to allow the Court time to adjudicate motions and for the parties to prepare for trial.